



PUBLIC NOTICE

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FCC SEEKS COMMENT ON REQUEST FOR EXPEDITIOUS REVIEW OF THE TRANSFER OF THE LOCKHEED MARTIN COMMUNICATIONS INDUSTRY SERVICES BUSINESS

CC Docket No. 92-237
NSD File No. 98-151

Issues and/or Questions Due: January 22, 1999
Comments on Lockheed Martin Request Due: March 17, 1999

INTRODUCTION

The Common Carrier Bureau (Bureau) hereby gives notice of a December 21, 1998 filing by Lockheed Martin IMS Corporation (Lockheed Martin) of a Request for Expeditious Review of the Transfer of the Lockheed Martin Communications Industry Services (CIS) Business to a new independent company, Warburg, Pincus & Co.¹ The CIS business unit of Lockheed Martin IMS currently serves as the North American Numbering Plan Administrator (NANPA).

To ensure the most comprehensive review of the Lockheed Martin Request, the Bureau seeks input from the public on issues that the Commission should address in considering this matter of significant public interest. Comments should be filed in accordance with the procedures outlined below.

¹ In the Matter of Request of Lockheed Martin Corporation and Warburg, Pincus & Co. for Review of the Transfer of the Lockheed Martin Communications Industry Services Business from Lockheed Martin Corporation to an Affiliate of Warburg, Pincus & Co., CC Docket No. 92-237, NSD File No. 98-151 (Dec. 21, 1998) (Lockheed Martin Request).

BACKGROUND

In an order released on July 13, 1995,² the Commission established the North American Number Council (NANC) pursuant to the Federal Advisory Committee Act (FACA).³ The *NANP Order* directed the NANC to recommend to the Commission and to other member countries of the North American Numbering Plan (NANP) a neutral entity to serve as the NANPA and a mechanism for recovering the costs of NANP administration in the United States. The Commission's charge that the NANC recommend an impartial NANP administrator is consistent with Congress' directive in section 251(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996,⁴ that the Commission designate an impartial numbering administrator to make telecommunications numbering available on an equitable basis.

On October 9, 1997, the Commission affirmed the NANC's selection of Lockheed Martin as the NANPA, subject to conditions outlined in the order and to the rules proposed by the NANC to govern the activities of the NANPA.⁵ The Commission also accepted the NANC's recommendation that Mitretek Systems (Mitretek) serve as the alternate NANPA, to assume NANPA responsibilities for the remainder of the five-year term, if it wished to do so, should Lockheed Martin not perform the NANPA functions in a satisfactory fashion.⁶

The NANPA is required by statute and by the Commission's rules to assign and administer NANP resources in an efficient, effective, fair, unbiased, and non-discriminatory manner.⁷ For this reason, in its February 20, 1997 NANP Administration Requirements Document (Requirements Document), the NANC established specific criteria to ensure the neutrality of the NANPA.⁸ In general, the NANPA must be a "non-governmental entity that is not aligned with any particular telecommunications industry segment."⁹ More specifically, the

² Administration of the North American Numbering Plan, *Report and Order*, CC Docket No. 92-237, 11 FCC Rcd 2588, 2590 (1995) (*NANP Order*).

³ 5 U.S.C., App. 2.

⁴ Telecommunications Act of 1996, Pub. L. No. 101-101, 110 Stat. 56 (1996).

⁵ In the Matter of Administration of the North American Numbering Plan and Toll Free Service Access Codes, *Third Report and Order and Third Report and Order*, CC Docket Nos. 92-237 and 95-155, FCC 97-372 (rel. Oct. 9, 1997) (*NANP Administration Third Report and Order*).

⁶ *NANP Administration Third Report and Order* at para. 67.

⁷ See 47 U.S.C. § 251(e); 47 C.F.R. § 52.13(b).

⁸ Requirements Document at section 1.2

⁹ Requirements Document at section 1.2

Requirements Document establishes that the NANPA may not be an affiliate of any telecommunications service provider, and defined the term "affiliate."¹⁰

In its *NANP Administration Third Report and Order*, in evaluating possible NANP administrators, the Commission addressed questions that had been raised about Lockheed Martin's neutrality.¹¹ Although the Commission determined that Lockheed Martin IMS could serve as the NANPA without compromising the purposes of the statute and the resulting neutrality criteria, it also stated that if Lockheed Martin or its affiliates in the future offer common carrier services that are more than *de minimis* in nature, we would reconsider the issue of Lockheed Martin's neutrality under section 52.12 of the Commission's rules and consider ways to ensure continued neutrality.¹²

Lockheed Martin assumed the NANPA functions in February 1998¹³ and will have assumed the central office (CO) code administrator functions from all 11 regional CO code administrators by early June 1999.¹⁴ Recently, the Commission was placed on notice that Lockheed Martin is seeking to acquire Comsat Government Services, Inc., a wholly owned subsidiary of Comsat, to facilitate the strategic aims of Lockheed Martin's newly formed Global Telecommunications subsidiary.¹⁵ On October 22, 1998, Lockheed Martin issued a report to the NANC, following upon several previous reports to the NANC, in which Lockheed Martin announced its intention to divest the CIS unit, in order to adhere to the Commission's neutrality requirement for the NANPA, as the third party administrator of numbering resources. The Lockheed Martin Request, outlined below, describes Lockheed Martin's proposed divestiture of the CIS unit.

¹⁰ Requirements Document at section 1.2.

¹¹ *NANP Administration Third Report and Order* at paras. 70-81.

¹² *NANP Administration Third Report and Order* at para. 81.

¹³ The Commission's order required Bellcore, the previous NANPA, to transition the NANP functions to Lockheed Martin no later than 90 days after selection of Lockheed Martin. *NANP Administration Third Report and Order* at n.226.

¹⁴ *NANP Administration Third Report and Order* at n.226. Although the 18-month time frame provided by the Commission for the transition of the Central Office (CO) code administration functions from the 11 regional CO code administrators to Lockheed Martin does not expire until August 1999, Lockheed Martin will complete the transition schedule in advance of that time frame.

¹⁵ Lockheed Martin Corporation, Regulus, LLC, COMSAT Corporation, and COMSAT Government Services, Inc., application to International Bureau, Satellite Policy Branch, Report No. SPB-139 (rel. Oct. 23, 1998). COMSAT holds a 214 authorization to provide international common carrier services.

OVERVIEW OF LOCKHEED MARTIN REQUEST

In its filing, Lockheed Martin states that it has signed an agreement (Transaction Agreement) to sell its CIS business unit to CIS management and an affiliate of E. M. Warburg, Pincus & Co. (Warburg), Warburg, Pincus Equity Partners, L.P. (WPEP).¹⁶ Pursuant to the Transaction Agreement, 95% of Lockheed Martin's equity interest in CIS will be acquired by CIS Acquisition Corporation, a newly organized corporation, and WPEP. The remaining 5% interest will be maintained by Lockheed Martin.¹⁷

According to Lockheed Martin, the Transaction Agreement is structured so that the newly formed CIS Acquisition Corporation "stands in the shoes of its predecessor."¹⁸ Lockheed Martin maintains that the restructured CIS will deliver the same services using the same systems, processes and staff, and that all of the staff, systems and infrastructure required to deliver CIS services will transfer from Lockheed Martin to the newly structured CIS.¹⁹ Lockheed Martin states that the restructured CIS will offer services under the identical pricing, terms and conditions agreed to in CIS's response to the Requirements Documents and in subsequent industry-approved statements of work.²⁰

According to Lockheed Martin, the proposed transfer of the CIS business will serve the public interest. First, Lockheed Martin maintains that the CIS sale will be seamless to the industry and to CIS customers. As such, the proposed transfer is intended to ensure CIS's continued ability to provide "high quality neutral third party numbering administration services."²¹

Second, Lockheed Martin states that the restructured CIS business will have a stable, reliable and broad-based financial investor in Warburg. In this regard, Lockheed Martin notes that Warburg intends that CIS have access to the resources it needs to fulfill its existing commitments and to grow and develop.²²

¹⁶ Lockheed Martin Request at 1, 5.

¹⁷ Lockheed Martin Request at 6.

¹⁸ Lockheed Martin Request at 6.

¹⁹ Lockheed Martin Request at 6.

²⁰ Lockheed Martin Request at 6.

²¹ Lockheed Martin Request at 9-10.

²² Lockheed Martin Request at 10.

Third, Lockheed Martin states that the ownership of the CIS business by Warburg will ensure that CIS's operations remain neutral.²³ Lockheed Martin claims that, as a financial investor, Warburg does not have the same neutrality conflicts as an operating company. Lockheed Martin claims that Warburg will depend on CIS' management team to lead and manage CIS.²⁴ Although Lockheed Martin acknowledges that Warburg has certain telecommunications interests, it maintains that those telecommunications investments currently account for less than five percent of the value of Warburg's total private equity investments and that Warburg does not have a vested interest in the outcome of numbering administration decisions.²⁵

Lockheed Martin also states that CIS and Warburg have committed to a Code of Conduct to further ensure that neutrality is maintained. According to Lockheed Martin, the Code guarantees that CIS will manage all of its operations in competitively neutral ways that meet the needs of the industry, that all service providers are treated equally, and that the confidentiality of all CIS data is maintained.²⁶ In addition, CIS will conduct at its expense, "audits of its adherence to and performance relative to the neutrality requirements of the industry."²⁷ Moreover, Lockheed Martin states that Warburg also has agreed to be bound by certain additional conditions "to ensure the continued neutrality of CIS regardless of the telecommunications interests of its parent company."²⁸ Finally, any future investments by Warburg's private equity funds in telecommunications service providers, that meet the NANPA affiliation thresholds, would be the subject of discussions between Warburg and the Commission as to appropriate informational barriers, safeguards or other alternatives to preserve the service levels and neutrality of the CIS business.²⁹

REQUEST FOR PUBLIC COMMENT

The NANP is the basic numbering scheme for the telecommunications networks located in 18 countries, including the United States, U.S. territories, Canada and countries in the Caribbean. Because of the importance of the NANPA's neutrality to the administration of numbering resources on a neutral, fair, effective and efficient basis, the Bureau seeks to ensure a comprehensive review of the Lockheed Martin Request. Moreover, because of the nature of the functions performed by the NANPA, the Bureau believes that public input into the review of

²³ Lockheed Martin Request at 12.

²⁴ Lockheed Martin Request at 13-14.

²⁵ Lockheed Martin Request at 15-19.

²⁶ Lockheed Request at 20.

²⁷ Lockheed Martin Request at 20.

²⁸ Lockheed Martin Request at 20.

²⁹ Lockheed Martin Request at 21.

the Lockheed Martin Request is particularly important. For these reasons, the Bureau has determined that interested parties should be permitted to raise reasonable and relevant questions concerning the Lockheed Martin Request and adopts the following procedures for this purpose:

- (1) Interested parties should submit to the Bureau issues and/or questions that they believe should be addressed by Lockheed Martin before the Commission reaches a determination on the Lockheed Martin Request. All issues and/or questions must be filed with the Bureau on or before January 22, 1999.
- (2) After evaluating all issues and questions raised by commenters, to ensure that the subject matter is relevant to the decision that must be reached by the Commission and to avoid duplication of issues and questions, the Bureau will forward, as soon as possible, a consolidated list of issues and questions to Lockheed Martin for response.
- (3) Lockheed Martin should respond to all issues and questions propounded by the Bureau within 15 days following receipt of the issues and questions from the Bureau. If it objects to responding to an issue or question, Lockheed Martin should state with specificity the nature of the objection. Thereafter, the Bureau may issue further rulings on the objections.
- (4) The Bureau will place Lockheed Martin's responses on public notice as soon upon receipt as possible. The Bureau seeks comment from the public by March 17, 1999, on whether it should recommend to the Commission that the Lockheed Martin Request be granted, with or without any conditions.

Examples of the kinds of issues on which the Bureau seeks public input by January 22, 1999, include, but are not limited to, the following:

- (1) the neutrality of the CIS Acquisition Corporation, on the basis of the neutrality criteria set forth in the Requirements Document, as well as the Commission's rules and orders;
- (2) the ability of the CIS Acquisition Corporation to perform the functions of the NANPA in accordance with the Requirements Document;
- (3) the commitment of the CIS Acquisition Corporation to perform the functions of the NANPA at the price agreed to by Lockheed Martin; and,
- (4) the ability and commitment of the CIS Acquisition Corporation to fulfill the remainder of Lockheed Martin's current term as NANPA, without compromising its neutrality and the resources needed to administer the NANP.

The Bureau also recognizes that the Commission adopted the NANC's recommendation that Mitretek serve as the alternate NANPA, to assume NANPA responsibilities for the remainder of the five-year term should Lockheed Martin not perform the NANPA functions in a satisfactory fashion. We note that Mitretek has urged the Commission to name it, the designated alternate, as the NANPA successor to Lockheed Martin.³⁰ For this reason, the Bureau also seeks public input on issues and questions that Mitretek should be permitted to answer following procedures identical to those outlined above. Example of issues or questions for Mitretek might include:

- (1) the ability of Mitretek to perform the functions of the NANPA in accordance with the Requirements Document;
- (2) the price at which Mitretek would agree to perform the functions of the NANPA and its ability and commitment to fulfill the remainder of Lockheed Martin's current term as the NANPA, without compromising its neutrality and the resources needed to administer the NANP; and,
- (3) the manner in which Mitretek would transition the NANPA responsibilities to ensure a transparent and seamless transfer from the standpoint of the industry.

Interested parties also may wish to raise questions for either Lockheed Martin or Mitretek concerning the impact of the transfer of the NANPA functions from Lockheed Martin to a new entity on the other 18 members of the NANP and on the seven LLCs in the United States.

Finally, the Bureau notes that it is also contemporaneously requesting the NANC to provide its input to the Bureau on the issues and questions that should be directed both to Lockheed Martin and to Mitretek. Based on the NANC's expertise, the Bureau believes its input will assist the Commission in reaching a decision that ensures the NANPA's neutrality to the administration of numbering resources on a neutral, fair, effective and efficient basis.

PROCEDURAL MATTERS

Proposed issues and/or questions on the Lockheed Martin Request must be filed with the Bureau by **January 22, 1999**. Comments on the Lockheed Martin Request must be filed with the Bureau by **March 17, 1999**. Parties should reference **CC Docket No. 92-237** and **NSD File No. 98-151** in their comments. Parties may obtain the Lockheed Martin Request at the NANC website, www.fcc.gov/ccb/Nanc. The Lockheed Martin Request is available for public inspection and copying in the Network Services Division Public Reference Room, Room 220, 2000 M Street, NW, Washington, DC 20554. Copies of the Lockheed Martin Request also are available from ITS, at 1231 20th Street, NW, Washington, DC 20036, or by calling (202) 857-3800.

³⁰ See, e.g., Letter from Dr. H. Gilbert Miller, Vice President, Center for Telecommunications and Advanced Technology, Mitretek, to Lawrence E. Strickling, Chief, Common Carrier Bureau, FCC, dated Dec. 8, 1998. Mitretek's December 8 letter is available on the NANC website, www.fcc.gov/ccb/Nanc, or from the Network Services Division Public Reference Room at the address provided below.

Overview of ULS Conversion

Beginning on January 19, 1999, applicants for and licensees of Aircraft stations will be able to use ULS Form 605 (OMB Control Number 3060-0850) for electronic filing of new station applications, license modifications, application amendments, license renewals, license cancellations, application withdrawals, requests for duplicate licenses, and administrative updates.

[**Note:** Form 605 will not be affected by the transition to new ULS rules on February 12, 1999. Form 605 was previously approved by OMB in November 1998, and this version of the form will continue to be used after the effective date of the new rules.]

As part of the conversion process, all existing Aircraft station licensing data currently residing in the Bureau's database will be transferred to the ULS database, and all Aircraft station applications filed on or after January 19, 1999, will be entered into the ULS database and processed through the new system. Also, as of January 19, 1999, Aircraft station licensing data will be available to the public via ULS, and will no longer be updated in the Aircraft station database.

[**Note:** Until further notice, applications for aircraft flight test stations should continue to be filed on FCC Form 406. The licensing of Aircraft flight test stations will be converted to ULS in a future release at which time the Bureau will release a Public Notice detailing new procedures.]

TIN Registration

As mandated by the Debt Collection Improvement Act of 1996, the Commission is requiring all wireless licensees, including Aircraft station licensees, to register their Taxpayer Identification Numbers (TINs) in ULS. Aircraft station licensees who have not yet registered their TIN and selected user passwords in ULS must do so before filing applications electronically or updating licensing information in the new system.⁴ **All applicants and licensees must submit their TIN with their applications regardless of whether they file electronically or manually.** Failure to register prior to filing an application will result in delayed processing of the application. The Bureau urges applicants and licensees to electronically register their TIN. This can be done at the FCC's ULS Internet site at <http://www.fcc.gov/wtb/uls> by clicking on the "ULS Call Sign Registration" link.

Manual TIN registration requires FCC Form 606 (TIN Registration Form), which can be obtained from the Internet at <http://www.fcc.gov/formpage.html>, by calling the FCC's Form Distribution Center at 1-800-418-FORM (3676), or from the FCC's Fax-on-Demand service by calling (202) 418-0177 from the handset of a fax machine (follow the prompts and use document retrieval number 000606).

To protect licensee privacy, registered TINs will not be made available to the public. However, TIN information may be released to the U.S. Treasury Department for purposes of compliance with the Debt Collection Act.

⁴ See "Wireless Telecommunications Bureau Universal Licensing System Registration Now Available," *Public Notice*, November 4, 1997.

Manually-filed Form 606 should be mailed to:

Federal Communications Commission
Information Technology Division
Attention: Kathy McLucas
1270 Fairfield Road
Gettysburg, PA 17325-7245

Form 605 Filing Procedures

Form 605 will replace three forms (Forms 404, 405B, and 900) previously used by Aircraft station applicants and licensees. It will be used for all Aircraft station licensing purposes including new station applications, license modifications, application amendments, license renewals, license cancellations, application withdrawals, requests for duplicate licenses, and administrative updates.

To facilitate immediate use of ULS, the Bureau hereby waives its rules to the extent that they require the filing of Forms 404 and 405B for Aircraft station licensing. This waiver is conditioned on the timely filing of Form 605 in lieu of the old forms. For instructions on filing Form 605 electronically, point your web browser to <http://www.fcc.gov/wtb/uls>. For instructions on filing form 605 manually, refer to Instructions included with the form.

Applicants for and licensees of Aircraft stations may continue to use existing forms until August 12, 1999 (six (6) months after the effective date of the *Report and Order*). However, the Bureau strongly urges applicants and licensees to use the new Form 605 when submitting an application. The choice of application form and filing method will affect applications in the following way:

- (1) Form 605 filed electronically – is the most efficient filing method and will result in expedited treatment compared to filing manually.
- (2) Form 605 filed manually - will result in expedited treatment compared to filing old forms or letter requests.
- (3) Old forms or letter requests filed manually - is not recommended and will result in slower processing than the options described above. Applicants filing manually using old forms must remember to include their TIN with each application or letter request.

Application Fees

Applicants using ULS to file electronically remain subject to existing application fees where applicable under current rules. ULS, however, will simplify the process of submitting fees to the Commission and greatly reduce the potential for insufficient fees to be submitted. When an applicant submits its application online, ULS will assign a file number and will pre-fill fee information on FCC Form 159, including the correct fee amount due and the payment type code. ULS will instruct the applicant on how to print out the pre-filled Form 159 so that it can be mailed to Mellon Bank. The Form 159 and accompanying fee must be received by Mellon Bank within 10 days of filing the application. In the near future, ULS will be capable of accepting credit card payments online. The Bureau will release a public notice and provide information on its web site when this option becomes available.

Section 1.1111 of the Commission's Rules, 47 C.F.R. § 1.1111, requires applications and fees to be submitted as a single package and states that the Commission will not be responsible for matching fees and applications submitted separately. The Commission has adopted rules to amend this requirement to provide for the filing of applications online and fees separately, via mail. In order to immediately bring the full benefits of online filing to the public, the Bureau hereby waives the requirements of Section 1.1111 to the extent that Aircraft station applicants filing electronically via ULS may remit fees separately via U.S. mail or courier. This waiver is conditioned on the appropriate fee amount being received at Mellon Bank, at the address specified to the applicant by the ULS, within 10 days from the receipt date shown on the application. Applications filed online that do not conform with the conditions of this waiver will be dismissed as defective.

Where to Send Payments for Electronically-filed Applications

All payments for electronically-filed applications should be sent to:

Federal Communications Commission
ULS Electronic Filings
P.O. Box 358994
Pittsburgh, PA 15251-5994

Where to Send Manually-filed Applications

Manually-filed Renewal Only applications **that require fees** should be sent to:

Federal Communications Commission
Wireless Telecommunications Bureau
P.O. Box 358245
Pittsburgh, PA 15251-5245

All other manually-filed applications **that require fees** should be sent to:

Federal Communications Commission
ULS Application Processing
P.O. Box 358130
Pittsburgh, PA 15251-5130

All manually-filed applications **that do not require fees** should be sent to:

Federal Communications Commission
ULS Application Processing
1270 Fairfield Road
Gettysburg, PA 17325-7245

Note: Applicants are advised that filing manually -- using new or old forms -- likely will delay processing in comparison to electronic filing of ULS Forms because of the additional time required for the FCC to enter manually-filed information into ULS. Additionally, applicants using non-ULS forms are reminded that they must include their TINs on the front of their applications so that the data can be entered into ULS.

For Further Information or Assistance

For general information about ULS, including answers to frequently asked questions regarding submitting applications, finding the status of pending applications, and searching the ULS database, the Commission recommends first consulting the ULS webpage at <http://www.fcc.gov/wtb/uls>. Those having specific questions not addressed on the webpage may contact Commission staff via phone or e-mail as described below.

FCC Technical Support Hotline: (202) 414-1250, or via e-mail at ulscomm@fcc.gov. Contact the Technical Support Hotline about questions concerning computer access to ULS, TIN registration, uploading files, or submitting attachments in ULS. The hotline is available Monday through Friday, from 8 a.m. to 6 p.m. EST. In order to provide better service to ULS users and ensure the security of the electronic filing system, all calls to the hotline are recorded.

ULS Aircraft Licensing Support: (717) 338-2646, or via e-mail at dreeder@fcc.gov. Contact Licensing Support with questions about which application purpose(s) are appropriate for a particular filing, what information is being requested on a ULS Form or Schedule, or any other ULS-related licensing matter. ULS Licensing Support is available Monday through Friday, from 8:30 a.m. to 4 p.m. EST.

Comments on ULS should be sent via the Internet to: ulscomm@fcc.gov.